

Rec'd PCT/PTO 19 MAY 2005

PTO/SB/61 (09-04)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)**

Docket Number (Optional)

DPS-030805-PET-1011US #3

First Named Inventor: James Edward Delves, et al.

Art Unit:

Application Number:

Examiner:

Filed:

Title: Apparatus for Transferring Settled or Suspended Solids from an Open Vessel into a Closed Vessel

RECEIVED

Attention: Office of Petitions
Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

19 DEC 2005

Legal Staff
International Division

NOTE: If information or assistance is needed in completing this form, please contact
Petitions Information at (703) 305-9282.

The above identified application became abandoned for failure to comply with national phase filing requirements by the May 5, 2005 deadline.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2)
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Adequate showing of the cause of unavoidable delay.

1. Petition fee

- ☐ Small entity - fee \$ _____ (37 CFR 1.17(l)). Applicant claims small entity status.
See 37 CFR 1.27.
- ☒ Other than small entity - fee \$ 500.00 (37 CFR 1.17(l)).

2. Reply and/or fee

- A** The reply and/or fee to the above-noted Office action in the form of
All papers necessary to complete US national phase filing (identify the type of reply):
 and the filing fee.
☐ has been filed previously on _____
☒ is enclosed herewith.
- B** The issue fee of \$ _____
☐ has been filed previously on _____
☐ is enclosed herewith.

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

David L. Mossman
Signature

MAY 18, 2005
Date

David L. Mossman

Typed or printed name

29,570

Registration Number, if applicable

Madan, Mossman & Sriram, Ste 700

Address

512/219-4026

Telephone Number

2603 Augusta, Houston, TX 77057-5662

Address

Enclosure ☒ Fee Payment

☒ All papers necessary to complete US national phase filing.

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☒ PCT Request, Notice of Search Report Transmittal, PCT ISR, PCT Application,

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. **EXPRESS MAIL EV61180804145**

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 872-9306.

5-19-05
Date

Lee Brevard
Signature

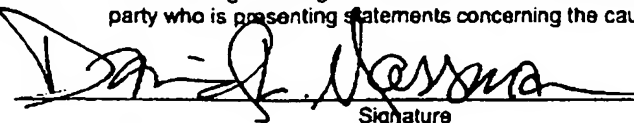
Lee Brevard

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

MAY 18, 2005

Date

David L. Mossman

Typed or printed name

29,570

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

The Applicant respectfully requests that the subject national phase filing of the subject PCT application be entered as timely filed and given a filing date, and to the extent the application must be revived, revival is also respectfully requested.

It will be established that in-house counsel Michael P. Hartmann was preparing to file the subject national phase application on Thursday, May 5, 2005, when he was killed in his office. His killing unavoidably delayed the filing of the subject national phase application and it has taken until now to prepare the papers that he would have prepared to file the application in addition to this Petition and supporting documents.

The following documents in support of this Petition are filed:

1. Appendix A -- A Declaration from Ms. Ann Procell describing the efforts to timely file the subject US national phase application on May 5, 2005, and the events surrounding Mr. Hartmann's death.
2. Appendix B -- A photocopy of a front page article in the Houston Chronicle of Friday, May 6, 2005, reporting on the shooting in which Mr. Hartmann was killed.
3. Appendix C -- A photocopy of an article in the Houston Chronicle of Saturday, May 7, 2005, on page B8 following up on the shooting in which Mr. Hartmann was killed, identifying him as one of the two lawyers slain.

In view of Mr. Hartmann's untimely death early in the morning of Thursday, May 5, 2005, the thirty (30) month date from the November 5, 2002 PCT priority date, the subsequent evacuation of the building, the physical impossibility of filing the necessary papers on that day and immediately thereafter since Mr. Hartmann's office was sealed, the delay in obtaining the necessary papers, the preparing of this Petition and the attached Appendices, it is respectfully submitted that the subject application be accepted and accorded a filing date, and that the abandonment of the application determined to be unavoidable.

It is further respectfully requested, that given the tragic, unavoidable and unpredictable circumstances that caused the filing of the subject application to be delayed in filing, that the instant \$500.00 petition fee under 37 CFR 1.17(l) be refunded.

The PCT Office is respectfully invited to call the Applicant's attorney David L. Mossman at 512/219-4026 for any reason that may facilitate the filing of this subject application.

(Please attach additional sheets if additional space is needed.)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: :
James Edward Delves, et al. :
Serial No.: :
Filed: : Group Art Unit:
For: APPARATUS FOR TRANSFERRING : Examiner:
SETTLED OR SUSPENDED SOLIDS : Docket No.: DPS-030805-PET-1011US
FROM AN OPEN VESSEL INTO A : Date: May 17, 2005
CLOSED VESSEL :

DECLARATION IN SUPPORT OF PETITION FOR REVIVAL OF AN APPLICATION
FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR §1.137(a)

Mail Stop PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

In connection with the enclosed Petition for Revival of an Application for Patent Abandoned Unavoidably under 37 CFR §1.137(a) in the above-cited case, please enter the following Declaration in support thereof.

I, ANN PROCELL, hereby declare that I have been employed at Cooper Cameron Corporation and its predecessor companies for 26 years, the past 19 years as a patent legal assistant;

That I have extensive experience and knowledge in preparing and filing national phase U.S. patent applications from International PCT applications, as well as in other patent matters;

I hereby certify that this correspondence, and any attachments referred to, is being deposited with the United States Postal Service with sufficient postage as ~~first class mail~~ in an envelope addressed to Mail Stop PCT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on **EXPRESS MAIL**

5-19-05
Date of Deposit

Lee Brevard
Lee Brevard

5-19-05
Date

EV 611808041 US

That I have worked with patent agent Mr. Michael P. Hartmann (U.S. Registration No. 46,760) for the past 8 years, and that his most recent title was Manager Patent Services at Cooper Cameron Corporation;

That both Mr. Hartmann and I were aware of the deadline of Thursday, May 5, 2005, to file in the United States a national phase application from International Patent Application No. PCT/GB2003/04695, published May 21, 2004 as WO 2004/041690 A2, having a priority date of November 5, 2002 (30 months prior to May 5, 2005), which awareness is evidenced by the attached e-mail of Friday, April 29, 2005 from Mike Hartmann to David Zachariah confirming that Mr. Zachariah wanted to "maintain coverage in the US and the UK only";

That International Patent Application No. PCT/GB2003/04695 was made in the name of Applicant Dynamic Processing Solutions PLC, and that Dynamic Processing Solutions PLC is a wholly-owned subsidiary of KCC Group Limited, which is a wholly owned subsidiary of Petreco International Limited, which is a wholly owned subsidiary of Cooper Cameron Corporation;

That on the morning of Thursday, May 5, 2005, I was in the Intellectual Property Department offices on the fifth floor of the Cooper Cameron building at 4646 West Sam Houston Parkway North, Houston, Texas 77041 writing an e-mail on an unrelated project when I heard what sounded like an explosion at 8:38 a.m.; the time being confirmed later by reference to the e-mail time transmission record;

That I went to Mr. Hartmann's door to see if he had heard the same noise and saw Mr. Hartmann slumped in his chair behind his desk, some blood on the floor, and Mr. Jackie Duke sitting in a chair opposite Mr. Hartmann holding a gun between his knees;

That I ran to my cubicle and dialed the operator for help when I heard a second shot and took refuge under my desk;

That I heard a third and fourth shot before being called out of hiding by others, it being determined later that the first shot killed Mr. Hartmann, the third shot had entered the ceiling, and the fourth shot had killed Mr. Duke, and that Mr. Duke in fact had two guns in his possession along with 80 rounds of ammunition;

That the entire building was evacuated immediately, that Mr. Hartmann's office was marked off limits by local law enforcement and, after completion of the police investigation, sealed by Cooper Cameron, and that I did not return to the office until Tuesday, May 10, 2005, and that it would not have been possible to file the subject application on the deadline, the date of the shooting Thursday, May 5, 2005;

That I respectfully request that the application herein and the Petition to Revive this application be granted in view of the failure to file the subject national phase application as unavoidable in view of the tragic and violent events of May 5, 2005;

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application cited above or any patent issued thereon.

Further Declarant sayeth not.

Signature of Declarant: 
ANN PROCELL

Date: May 17, 2005

10/535379

JC20 Rec'd PCT/PTO 19 MAY 2005

-----Original Message-----

From: Hartmann, Mike

Sent: Friday, April 29, 2005 1:33 PM

To: 'david.zachariah@petrecointl.com'

Cc: Procell, Ann

Subject: RE: FW: DPS-030805 PCT : Hydrotrans DPS technology.

David,

Thanks for the prompt reply. We will proceed to maintain coverage in US and the UK only. We do not wish to protect the device in any other country. Correct?

Mike

-----Original Message-----

From: david.zachariah@petrecointl.com [mailto:david.zachariah@petrecointl.com]

Sent: Friday, April 29, 2005 1:04 PM

To: Hartmann, Mike

Subject: Re: FW: DPS-030805 PCT : Hydrotrans DPS technology.

Mike,

I want to make sure I understand the question. Do you just want to know about Brazil and the US? or more broadly? If the former, I'd say drop Brazil and keep the US and UK.

Thanks

David

"Hartmann, Mike"

<hartmannm@coopercameron.com>

04/29/2005 10:55 AM

To "David. Zachariah (E-mail)" <david.zachariah@petrecointl.com>

cc "Noel Akers (E-mail)" (E-mail)" <n.akers@ntlworld.com>, "Procell, Ann" <procella@coopercameron.com>

Subject FW: DPS-030805 PCT : Hydrotrans DPS technology.

David,

The attached PCT application requires national filing by the end of next week in Brazil and the US. We can meet this bar date should we decide to file in those countries. This invention has already been filed in the UK.

Other countries can also be filed with an additional 30 days time.

We have a previous Email from you saying that the DPS Hydrotrans technology is one of the patent inventions you wish to retain. Please advise by Monday afternoon what countries we wish to nationalize in a timely manner.

Regards, Mike

-----Original Message-----

From: Noel Akers [mailto:n.akers@ntlworld.com]

Sent: Friday, April 29, 2005 10:21 AM

To: Hartmann, Mike; Procell, Ann

Subject: DPS-030805 PCT

Dear Ann and Mike,

I have checked back through the correspondence we received from Haseltine Lake on this case. I cannot find a proper identification of the invention in relation to the email of David Zacchariah.

However, this case is referred to as 'Atmo Trans', and is considered to be an improvement on the Hydro Trans invention.

Best regards,

Noel

N.J. Akers & Co.
Carines
Cubert
Newquay
Cornwall
TR8 5ET
UNITED KINGDOM

Tel: 01637 831405
Fax: 01637 831409

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